

Commissioner, Indiana Department of Environmental Management: Complainant
v. Charles G. Hungler, Jr., Class I Operator's Certificate No. 10045 and
Class A Operator's Certificate No. 017131: Respondent
2009 OEA 83, (07-W-E-3901)

OFFICIAL SHORT CITATION NAME: When referring to 2009 OEA 83, cite this case as
IDEM v. Hungler, 2009 OEA 83.

TOPICS:

revocation
operator's certificate
wastewater
fraud
deception
summary judgement

PRESIDING ENVIRONMENTAL LAW JUDGE:

Catherine Gibbs

PARTY REPRESENTATIVES:

IDEM: Sierra Alberts, Esq.
Petitioner: Larry Kane, Esq.; Bingham McHale LLP

ORDER ISSUED:

July 1, 2009

INDEX CATEGORY:

Water

FURTHER CASE ACTIVITY: Order resulting from reversal and remand of 2008 OEA 1 by
Marion County Superior Court

[*IDEM v. Hungler*](#), 2009 OEA 83rr in .pdf format

STATE OF INDIANA

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BEFORE THE INDIANA OFFICE OF

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v. Charles G. Hungler, Jr., Class I Operator's Certificate No. 10045 and
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4. On May 8, 2009, Judge Theodore Sosin of the Marion Superior Court issued Findings of Fact, Conclusions of Law and Judgment stating that the ELJ's 2008 Final Order is arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, short of statutory right and unsupported by substantial evidence. The Marion Superior Court granted the IDEM's Verified Petition for Judicial Review and remanded this case to the OEA to issue a new final order consistent with the Court's ruling.

CONCLUSIONS OF LAW

1. Pursuant to I.C. § 13-18-11-8, upon a finding that the Respondent has practiced fraud or deception, the Commissioner may revoke an operator's certification.
2. On May 8, 2009, the Marion Superior Court entered an order reversing the ELJ's grant of summary judgment to the Respondent.
3. Summary judgment is entered in favor of the IDEM.
4. The Commissioner may revoke the Respondent's Certificates.

FINAL ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED summary judgment is entered in favor of the IDEM. Pursuant to I.C. § 13-18-11-8, the Commissioner may revoke the Respondent's Certificates.

IT IS SO ORDERED this 1st day of July, 2009 in Indianapolis, IN.

Hon. Catherine Gibbs
Environmental Law Judge